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MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO PC ATTN: PATENT INTAKE CUSTOMER NO. 29315 ONE FINANCIAL CENTER BOSTON, MA 02111				APPLE, KIRSTEN SACHWITZ		
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/997,273

Filing Date: November 30, 2001

Appellant(s): KENDE ET AL.

KENDE ET AL.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/3/08 appealing from the Office action
mailed 4/16/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the evidence (e.g., patents, publications, Official Notice, and admitted prior art) relied upon in the rejection of claims under appeal.

Roberts, US 6,885,997, April 26, 2005.

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims. This is a verbatim copy of the final rejection mailed on 4/16/07.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The Examiner has read and reviewed all of the information provided by the Appellant. The examiner rejects as final claims 1-26 under 35 USC 102.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the appellant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the appellant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts (US Patent 6,885,997 B1).

Re claim 1 & 14: Roberts discloses:

A method & system for analyzing service provider rate plan information, comprising:

A user module for accessing user information (see , Figure 5, item 402)

A service provider data base for storing service provider information wherein service provider information comprises rate plan information associated with one or more service providers; and (see , Figure 5, item 410)

An analysis engine module for analyzing user information and service provider information to generate one or more savings suggestions base on rate information and at least one other user preference. (see , Figure 5, item 416)

Re claim 2 & 15: Roberts discloses:

User information comprises user entered profile information (see , Figure 5, item 402)

Re claim 3 & 16: Roberts discloses:

User information comprises user prior usage information (see , Figure 5, item 402)

Re claim 4 & 17: Roberts discloses:

User information comprises user entered profile information and prior usage information (see , Figure 5, item 402)

Re claim 5 & 18: Roberts discloses:

A savings module/step for providing personalized savings information where in personalized savings information is generated by the analysis engine module (see , Figure 7, item 64)

Re claim 6 & 19: Roberts discloses:

Savings information comprises static savings information (see , Figure 7, item 64)

Re claim 7 & 20: Roberts discloses:

Savings information comprises proactive savings information (see , Figure 7, item 64)

Re claim 8 & 21: Roberts discloses:

External data module/step further analyses user independent data in generating one or more preferred savings suggestions (see , Figure 6, item 506)

Re claim 9 & 22: Roberts discloses:

A switching module/step for facilitating switching the user to the one or more preferred savings suggestions wherein the one or more preferred savings suggestions comprises a new rate plan (see , Figure 8, item 602)

Re claim 10 & 23: Roberts discloses:

Switching module/step for facilitating switching the user to the one ore more preferred savings suggestions wherein the one or more preferred savings suggestions comprises a new service provider (see , Figure 7, item 64)

Re claim 11 & 24: Roberts discloses:

A demand aggregation module/step for aggregating one or more users who are willing to transfer to an identified service provider (see , Figure 8, item 604, it is inherent that if you are tracking multiple orders you would aggregate them if same service provider identified)

Re claim 12 & 25: Roberts discloses:

A demand aggregation module/step for aggregating one or more users who are willing to transfer to an identified rate plan (see , Figure 8, item 604, it is inherent that if you are tracking multiple orders you would aggregate them if same rate plan identified)

Re claim 13 & 26: Roberts discloses:

A delivery module (see , Figure 8, item 606)

Response to Arguments

Appellant's arguments filed 01-09-2007 have been fully considered but they are not persuasive.

In particular, and respect to Claim 1 the Appellant argued 1st: Roberts does not disclose multi-factor rate analysis system

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts Figure 6, item 510.

Appellants argued 2nd, Roberts does not disclose user specified threshold for an amount of savings that would cause a user to switch rate plans

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts, Figure 8, item 602 + column 9, line 50 “client may choose to switch.” It is inherent that they must have a threshold for them to make that decision.

Appellants argued 3rd, Roberts does not disclose deterring a rate plan based on the users usage patter for a service over two or more separate periods of time.

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts Figure 6, item 510.

Appellants argued 4th, Roberts does not disclose electronically extracting prior usage information from an electronic bill payment system

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts, figure 6, item 502 & 504. It is inherent that this is typed in more electronically provided – the type of input method is a matter of design choice in the system.

Appellants argued 5th, Roberts does not disclose personalized savings information based on information in at least one of the users preferences + disclose saving information on discounts + disclosed savings information includes user behavior changes.

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts, Figure 6, item 512 or figure 7 clearly shows saving information. The appellant argues that Roberts is a comparison of rate plan. In the broadest reasonable interpretation comparison of existing rate plans to other plans is an example of user preferences (and probably the most common requested one.) Unless the claims are more narrow that preferences do not include this they are rejected under the current prior art. Also Roberts includes any discount information and a behavior change could be switching operators (figure 8, item 602)

Appellants argued 6th, Roberts does not disclose storing user independent data that can be used in analysis to generate savings suggestions + user rate plan switching information criteria

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts, Figure 6, item 502 & 504 both stored. Item 510 shows analysis of savings suggestions & plan switching information.

Appellants argued 7th, Roberts does not disclose demand aggregation module for aggregating users that are willing to transfer to an identified service provider.

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts that clear talks about using his process for multiple users in Figure 8, item 602 – multiple users could “switch providers.”

Appellants argued 8th, Roberts does not disclose means for automatically monitoring rate plans for a subscriber and deliver alerts to the user when a better rate is available.

The Examiner refutes the argument made by the Appellant and draws the attention to Roberts process can be run multiple times.

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(10) Response to Argument

Argument for Independent Claim 1 & 14 and its Dependent Claims 2-13 & 15-26

Appellant argues rejection does not allege each limitation of the claim. In claim 1 & 14 the appellant argues does not disclose "a multi-factor rate analyses engine module for analyzing on a per user basis... based on the rate plan information, the user's prior usage information and at least one user preference."

The examiner refutes the argument and draws attention to Roberts, Figure 5, item 416. The box states "perform analysis" while this is a broad statement it must be viewed in the context of Figure 5. It is clear in looking at the items in Figure 5 that this is done on a "per user basis" see item 402, also see column 7, line 47- column 9, line 12, specifically column 7, line 49 "enter information on a new client" and column 8 line 54- 55 "usage data are reduced to one set of net costs for a client." The "Multi-factor rate analysis" specifically described in column 8, line 14-26 "rate plan characteristics for a customer plan may be entered." The "at least one user preference" as also in the Roberts reference – there are many user preferences that are entered into the Roberts system as outline in column 7, line 48 "client enter information on a new client."

In claim 2 the appellant argues does prior art not disclose "a threshold amount of savings that would cause the user to switch rate plans."

The examiner refutes the argument and draws attention to Roberts, Figure 5, item 402 where the client information is entered. In addition the appellant is directed to column, 9, line 49-57, specifically line 50 "client may choose to switch." It is inherent that there is a "threshold" of the user to cause them to switch. This switch is completed in this invention automatically based on a threshold since the user "data may be automatically retrieved from database" (column 9, line 57).

In claim 3 & 16 the appellant argues prior art does not disclose "the user's prior usage information includes information regarding a user's usage patterns for a service over two or more periods of time."

The examiner refutes the argument and draws attention to Roberts, Figure 5, item 416. The box states "perform analysis" while this is a broad statement it must be viewed in the context of Figure 5. It is clear in looking at the items in Figure 5 that this is done on a "per user basis" see item 402, also see column 7, line 47- column 9, line 12, specifically column 7, line 54-63.

In claim 4 & 17 the appellant argues prior art does not disclose "prior usage information comprises prior usage information that is electronically extracted from an electronic bill payment system to avoid the need for a user to manually enter at least some prior usage information."

The examiner refutes the argument and draws attention to Roberts, Figure 5, item 416. The box states "perform analysis" while this is a broad statement it must be viewed in the context of Figure 5. It is clear in looking at the items in Figure 5 that this is done on a "per user basis" see item 402, also see column 7, line 47- column 9, line 12, specifically column 7, line 50-54 "optical recognition methods" is "electronically extracting from an electronic bill payment system".

In claim 5 & 18 the appellant argues prior art does not disclose "a savings module for providing personalized savings information to a user wherein the personalized savings information is generated by the analysis engine module based on the user's prior usage data and at least one of the user's preferences.."

The examiner refutes the argument and draws attention to Roberts, Figure 6, item 512 & Figure 7 clearly shows savings information. Additional limitations of "analysis engine module", "user's prior usage data" and "user's preferences" have already been addressed above in claim 1.

In claim 6 & 19 the appellant argues prior art does not disclose "savings information comprises incentives or discounts available to user based on equipment owned by the user."

The examiner refutes the argument and draws attention to Roberts, Figure 7, item 64. Roberts clearly includes "discount available to user based on equipment owned by the user" as described in column 7, line 59-60 "plan discounts" and column 9, line 25 "custom fees and/or discounts".

In claim 7 & 20 the appellant argues prior art does not disclose "savings information comprises proactive savings information including user behavior change recommendations information."

The examiner refutes the argument and draws attention to Roberts, Figure 7, item 64. In addition, Roberts invention includes both "current or proposed service usage" the proposed usage provides proactive savings information based on behavior changes.

In claim 8 & 21 the appellant argues prior art does not disclose "external data module for storing user independent data wherein the analysis engine module further analyses user independent data in generating one or more savings suggestions."

The examiner refutes the argument and draws attention to Roberts, Figure 6, item 506. The appellant argues that it does not disclose an external data module. It is unclear why the appellant is arguing this point as Figure 1 clearly shows the system structure and the external data both collected and stored.

In claim 9 & 22 the appellant argues prior art does not disclose "the user information further including "rate plan switching criteria" and further comprising a

switching module for automatically switching the user to the new rate plan when the rate plan switching criteria is met."

The examiner refutes the argument and draws attention to Roberts, Figure 5, item 402 where the client information is entered. In addition the appellant is directed to column, 9, line 49-57, specifically line 50 "client may choose to switch." It is inherent that there is a "rate plan switching criteria" of the user to cause them to switch. This switch is completed in this invention automatically based on a threshold since the user "data may be automatically retrieved from database" (column 9, line 57).

In claim 10 the appellant argues prior art does not disclose "the user information further including "switching module for facilitating the ability for the user to switch to a new rate plan."

The examiner refutes the argument and draws attention to Roberts, Figure 7, item 64. In the system layout, Figure 3, a "order tracking table" (column 7, line 36-37) is disclosed and is the "switching module".

In claim 11-12 & 24-25 the appellant argues prior art does not disclose "a demand aggregation module for aggregating one or more users who are willing to transfer to an identified service provider"

The examiner refutes the argument and draws attention to Roberts, Figure 8, item 604. It is clear that orders are aggregated by agent and tracked by one or more service identifiers.

In claim 13 & 26 the appellant argues prior art does not disclose "means for automatically monitoring rate plans for subscriber user and a delivery module for delivering alerts to a subscriber user when a better rate is available to the subscriber user."

The examiner refutes the argument and draws attention to Roberts, Figure 8, item 606. In addition the process described in Roberts would begin again with a comparison and monitor of rates.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Kirsten S Apple/

Kirsten Sachwitz Apple
Examiner
Art Unit 3693

Conferees:

/James P Trammell/

Supervisory Patent Examiner, Art Unit 3694

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